

Department of Energy

§ 1017.7

weapons, and components whose dissemination is controlled under section 148 of the Atomic Energy Act and this part.

Utilization facility means:

(1) Any equipment or device, or any important component part especially designed for such equipment or device, except for a nuclear weapon, that is capable of making use of special nuclear material in such quantity as to be of significance to the common defense and security or in such manner as to affect the health and safety of the public. For the purposes of this part, such equipment or devices include only Government equipment or devices that use special nuclear material in the research, development, production, or testing of nuclear weapons, nuclear weapon components, or nuclear material capable of being used in nuclear weapons; or

(2) Any equipment or device, or any important component part especially designed for such equipment or device, except for a nuclear weapon, that is peculiarly adapted for making use of nuclear energy in such quantity as to be of significance to the common defense and security or in such manner as to affect the health and safety of the public. For the purposes of this part, such equipment or devices include only:

- (i) Naval propulsion reactors;
- (ii) Military reactors and power sources that use special nuclear material;
- (iii) Tritium production reactors; and,
- (iv) Government research reactors.

§ 1017.5 Requesting a deviation.

(a) Any person may request a deviation, or condition that diverges from the norm and that is categorized as:

(1) A variance (i.e., an approved condition that technically varies from a requirement in these regulations);

(2) A waiver (i.e., an approved non-standard condition that deviates from a requirement in these regulations and which, if uncompensated, would create a potential or real vulnerability); or

(3) An exception (i.e., an approved deviation from a requirement in these regulations for which DOE accepts the risk of a safeguards and security vul-

nerability) according to the degree of risk involved.

(b) In writing, the person must:

(1) Identify the specific requirement for which the deviation is being requested;

(2) Explain why the deviation is needed; and,

(3) If appropriate, describe the alternate or equivalent means for meeting the requirement.

(c) DOE employees must submit such requests according to internal directives. DOE contractors must submit such requests according to directives incorporated into their contracts. Other individuals must submit such requests to the Office of Classification, Office of Health, Safety and Security, U.S. Department of Energy, 1000 Independence Ave., SW., Washington, DC 20585-1290. The Office of Classification's decision must be made within 30 days.

Subpart B—Initially Determining What Information Is Unclassified Controlled Nuclear Information

§ 1017.6 Authority.

The Secretary, or his or her designee, determines whether information is UCNI. These determinations are incorporated into guidance that each Reviewing Official and Denying Official consults in his or her review of a document or material to decide whether the document or material contains UCNI.

§ 1017.7 Criteria.

To be identified as UCNI, the information must meet each of the following criteria:

(a) The information must be Government information as defined in § 1017.4;

(b) The information must concern atomic energy defense programs as defined in § 1017.4;

(c) The information must fall within the scope of at least one of the three subject areas eligible to be UCNI in § 1017.8;

(d) The information must meet the adverse effect test described in § 1017.10; and

(e) The information must not be exempt from being UCNI under § 1017.11.